UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,646	04/23/2001	Doug Carl Dohring	66486-00004	5043

			EXAMINER
22334	7590	02/13/2006	CARLSON, JEFFREY D

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ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	09/840,646	DOHRING ET AL.
Office Action Summary	Examiner	Art Unit	
	Jeffrey D. Carlson	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 November 2005</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6-24,26-33,36-54,56-61,64-79,81-83,85 and 88-95* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6-24,26-33,36-54,56-61,64-79,81-83,85 and 88-90* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 7-05) Office Action Summary Part of Paper No./Mail Date 20060206

DETAILED ACTION

This action is responsive to the paper(s) filed 9/22/05 (via RCE filed 11/18/05).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, 6, 9-11, 14-24, 28, 31, 83, 85, 88-90 are rejected under 35

U.S.C. 102(e) as being anticipated by Gever et al (US6313835).

Regarding claims 1, 2, 10, 14, 16-18, 28, Gever et al teaches a system for

presenting targeted presentations to viewers of a web page. The presentations may be

for advertising [8:9] and may be presented with customizable elements of animations,

text, audio, colors, pictures, links [8:25-29, 9:12-20, 33-40, 57-58]. A user (advertiser)

may define a plurality of presentations at the server and may associate conditions which

allow the presentations to be targeted and selected based on the web page viewer

[9:64-67, 13:63-67, 14:11-40, 64-67]. The matching of the ad presentation to the

identified viewer is taken to provide a matching requirement. Gever et al specifies that

the character can be chosen based on the gender of the identified user. The

advertising presentations are taken to include a message integrated with an

advertisement. One line of introduction text can be taken to be a message while the

line that names the product can be taken to be the ad. Or the narrative text can be the

message while the text-based URL link can be the ad. Other reasonable interpretations

exist regarding what is needed to meet the broad "message" and broad "advertisement".

Any content presented can be taken to be a message or ad "delivered" by the character,

as long as there is some association with the character and the content – such as being

on the screen at the same time or being presented subsequently to each other. The

viewer will interpret the character as being affiliated with and hence,

presenting/delivering the content/ad/message. The entire presentation can be taken to

provide a message as well as an advertisement. Further the specific content of the

message and the advertisement is taken to be merely non-functional descriptive

material and any differences are not functionally involved in the method (or structurally

programmed) steps recited. The steps would be performed the same regardless of data

content. There is no patentable distinction between message and advertising content.

Thus, this descriptive material will not distinguish the claimed invention from the prior art

in terms of Patentability, see *In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed.

Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Regarding

the language that the conversation is manipulated based upon the advertisement and

dynamically upon live information received from the user, Gever et al is taken to read on

such language. The conversation is taken to be manipulated/provided according to the

advertising that is the subject of the animation/conversation. Gever et al teaches that

the animation is defined as a series of animation segments which are triggered by rules

that define the behavior of the characters [pg 4 line 9, pg 5 lines 13-15]. The characters

do not simply perform a canned animation performance, but rather perform dynamically triggered animation sequences according to their surroundings [pg 5 lines 29-36]. The animation can also be triggered by input received from the viewer such as mouse click [pg 6 lines 29-36, pg 10 lines 13-20, pg 23 lines 22-26, pg 25 lines 1-3]. Scripts are defined which define [triggerable] animation sequences including motion paths, sound and interaction of the characters with one another and/or with a viewer [pg 7 lines 24-27]. Gever et al teaches an embodiment whereby a "host" character interviews another character by way of scripts which allow triggered animation sequences (triggered behaviors) [pg 27 lines 24-31]. These examples all provide teachings of animated conversation manipulation based "dynamically upon live information received from the user after the conversation has begun."

Regarding claim 3, the image of the character can be taken to be providing a background image for presenting the character. The colors (52) and the pictures (50) can also taken to provide a background image.

Regarding claim 6, Gever et al teaches that the ad presentation can be based upon the viewer's previous visits to that page [14:25-31]. This is taken top provide selection based upon the viewers history with that page and therefore with conversations previously presented to/with the user.

Regarding claim 9, the product name/description text and the url can be taken to be two ads integrated with the other message content.

Regarding claim 11, the plane shown (fig 3) is not a character. Hence, the audio presented is taken to represent the audio of the speaking character who is not depicted.

Regarding claim 15, the client PC equipped with a web browser is taken to inherently represent a "gaming device" as the web browser provides the mere functionality capable of playing web-based games.

Regarding claim 19, Gever et al teaches providing the text in a text bubble [fig 3].

Regarding claims 21-24, the advertising-based presentation can be taken to be a conversation in itself. However, Gever et al incorporates by reference the earlier disclosed WO 97/35280 document [9:15-20]. This teaches animations which may be used as advertisements [WO 32:29-31] and which may be represented by multiple characters talking to each other or the viewer as conversations [WO: 10:24-27, 27:24-31, 28:3-5]. User interaction with the character's conversation is disclosed [WO: 7:25-27, 33:24-26].

Regarding claim 20, the audio provided by Gever et al is taken to provide a message integrated with the advertising. Further, Gever et al teaches in WO that the character can speak or sing the user's entered messages [WO: 36:11-13]

Regarding claim 31, the matching and selection of the ads is taken to be accomplished dynamically.

Regarding claims 83, 85, 87, 88, Gever et al teaches targeting the presentations based on stored profiles of the visitor which specify demographics as well as # of visits to the page. This information is taken to inherently be stored in a database for retrieval when needed by the system. The storage of the # of visits to the pages having ad presentations is taken to provide a conversation history database for identifying the types of messages/ads to be delivered to the user. The user who specifies the

parameters is taken to be the advertiser. The advertiser stores the character to be

associated with the ads, the text, the audio, the colors, etc., as well as the matching

conditions (criteria for display). This information is taken to inherently be stored in a

database for retrieval when needed by the system. Gever et al teaches (in the WO

document) that the animated characters are built using smart objects which define their

rules/attributes [WO: 4:5-10, 5:13-15, 29-36, 6:6-10]. This information is taken to

inherently be stored in a database for retrieval when needed by the system. Any

advertiser-specified criteria (requirement) for targeting is taken to be stored in a

database so that such criteria can be retrieved and matched to the visitors.

Regarding claims 89, 90, Gever et al teaches the presentations to be requested

and viewed by way of Internet web browsers. The server is taken to receive the

requests, forward the requests to a component which integrates presentation and

delivers the content to the users browser.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9 (alternatively), 12, 13, 29, 30, 39, 42, 43, 58, 59 are rejected under

35 U.S.C. 103(a) as being unpatentable over Gever et al.

Regarding claims 9 (alternatively), 29, 30, 58, 59, the WO document discloses

the idea of a conversation between various characters who can interact automatically

with each other. When there is no interaction to process, the characters may go into an

idle state until interaction is sensed [WO:5:18-23]. The characters also have abilities to

adapt and learn from their history [WO: 5:37+]. These features suggest that it would

have been obvious to have a running conversation, ongoing interactions and learning

over time and it would have been obvious to one of ordinary skill at the time of the

invention to have triggered plural dynamically-provided advertising throughout the life of

the character presentations, conversations or "interviews." Official Notice is taken that it

is further well known to provide periodic advertising throughout radio or TV

conversations/interviews and it would have been obvious to one of ordinary skill at the

time of the invention to have provided ads during the same opportunities provided by

Gever et al in order to generate revenue.

Regarding claims 12, 13, Official Notice is taken that it is well known to provide

web browsing features with wireless telephones. It would have been obvious to one of

ordinary skill at the time of the invention to have browsed the ad/message/animation

enhanced web pages of Gever et al with such a device for convenience.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever

et al in view of Rakavy et al (US6317789). Gever et al does not appear to teach

random ad selection. Rakavy et al teaches targeted advertising where a random

element is used so that high priority ads are selected most often, yet lower priority ads

may be selected sometimes [10:5-13]. It would have been obvious to one of ordinary skill at the time of the invention to have provided such a feature in order to offer a variety of fresh advertising content.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al in view of Makar et al (US6708203). Gever et al does not appear to teach ads based on the user's language. Makar et al teaches targeted advertising where a the user language is used for ad selection [22:7-13]. It would have been obvious to one of ordinary skill at the time of the invention to have provided such a feature in order to offer better targeted ad content.

Claims 26, 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al in view of Alberts (US5937392). Gever et al does not appear to teach particular frequency criteria. Alberts teaches that it is well known to select advertising where ads are forced to meet a schedule. As an example, 4 ads are rotated evenly so that each ad is shown evenly in order [1:22-31]. It would have been obvious to one of ordinary skill at the time of the invention to have provided such a feature with Gever et al. Alternatively, a plurality of ads that matched Gever et al's conditions could be evenly selected with the features of Alberts. Such would provide the ads during a percentage of sessions as well as at a particular frequency (25% of the time).

Claims 32, 33, 36-54, 56, 57 are rejected on the same basis as claims 2, 5-24, 26.

Claims 60, 61, 64-79, 81, 82 are rejected on the same basis as claims 2, 3, 6, 8, 10-17, 22-24, 20, 18, 19, 26, 27.

Response to Arguments

Applicant argues that Gever et al does not teach manipulating the conversation after the conversation has begun. As stated above:

Regarding the language that the conversation is manipulated based upon the advertisement and dynamically upon live information received from the user, Gever et al is taken to read on such language. The conversation is taken to be manipulated/provided according to the advertising that is the subject of the animation/conversation. Gever et al teaches that the animation is defined as a series of animation segments which are triggered by rules that define the behavior of the characters [pg 4 line 9, pg 5 lines 13-15]. The characters do not simply perform a canned animation performance, but rather perform dynamically triggered animation sequences according to their surroundings [pg 5 lines 29-36]. The animation can also be triggered by input received from the viewer such as mouse click [pg 6 lines 29-36, pg 10 lines 13-20, pg 23 lines 22-26, pg 25 lines 1-3]. Scripts are defined which define [triggerable] animation sequences including motion paths, sound and interaction of the characters with one another and/or with a viewer [pg 7 lines 24-27]. Gever et al teaches

an embodiment whereby a "host" character interviews another character by way of scripts which allow triggered animation sequences (triggered behaviors) [pg 27 lines 24-31]. These examples all provide teachings of animated conversation manipulation based "dynamically upon live information received from the user after the conversation has begun."

Applicant's arguments filed 5/13/05 have been fully considered but they are not persuasive. Applicant has amended the independent claims to require ad selection based upon: 1) user demographics and user ad history OR 2) an advertiser characteristic OR 3) an advertising requirement OR 4) a character characteristic. As written previously and repeated herein, the rejection notes that Gever et al enables a user (advertiser) to specify conditions for targeting the ad presentations to visitor characteristics – such as gender of the visitor, page history viewed. These are taken to be examples of 3) an advertising requirement – a requirement for matching ads to certain user criteria. These also could be said to meet 2) advertiser characteristic – an advertiser having the characteristic of desiring to target based upon such criteria. Regarding claim 83, the action pointed/points out how the advertiser-entered criteria used for ad selection is taken to be matching conditions stored in a database for later retrieval.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-

6716. The examiner can normally be reached on Mon-Fri 8a-5:30p, (off on alternate Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeffrey D. Carlson
Primary Examiner
Art Unit 3622

jdc